

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 699 Affordable Housing

SPONSOR(S): Aubuchon and others

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Economic Development _____	9 Y, 0 N	Rojas	Croom
2) Economic Expansion & Infrastructure Council _____			
3) Policy & Budget Council _____			
4) _____			
5) _____			

SUMMARY ANALYSIS

This bill amends s. 420.5061 to remove the provision requiring the Florida Housing Finance Corporation (FHFC) to pay a General Revenue service charge at the time of original transfer or rights and liabilities from the Florida Housing Finance Agency to the FHFC.

The bill also substantially revises and updates ss. 420.9071, 420.9073, 420.9075 and 420.9076 which govern the definitions and implementation of the State Housing Initiatives Partnership (SHIP) Act.

Note: A strike-all amendment was adopted for HB 699. Please see Section IV for a summary of the strike-all.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families – The bill will increase the minimum allocation of SHIP funding, offsetting the growing number of households seeking assistance for affordable housing.

Provides limited government - The bill updates the State Housing Initiatives Partnership (SHIP) Act allowing for more efficient implementation by the Florida Housing Finance Corporation.

B. EFFECT OF PROPOSED CHANGES:

General Revenue Service Charge Repeal

Present Situation

The General Revenue service charge was implemented to pay for the costs of general government, as defined in s. 215.20(1), F.S. The service charge is imposed on individual program trust funds, to offset the associated management costs incurred by the Department of Financial Services (DFS). The FHFC was created on January 1, 1998, at which time the FHFC began performing the functions previously performed by the Department of Financial Services for the Florida Housing Finance Agency (Agency).

Pursuant to s. 420.5061, F.S., the FHFC is required to transfer to the General Revenue Fund an amount which otherwise would have been deducted as a service charge if the FHFC Fund, the State Apartment Incentive Loan Fund, the Florida Homeownership Assistance Fund, the HOME Investment Partnership Fund and the Housing Predevelopment Loan Fund were each trust funds. According to the Office of Economic & Demographic Research (EDR), the FHFC has not made any transfers to General Revenue since its establishment in 1997 and is currently holding approximately \$6.1 million for transfer. This represents transfers for the calendar years 1998 through 2006 that have not been made.

FHFC claims all service charge payments required by s. 420.5061, F.S., which were due and owing up to the transfer of rights and responsibilities to and creation of the FHFC on January 1, 1998 have been paid and that no further payment was owed by the FHFC to the General Revenue Fund under the provisions of s. 420.5061, F.S. The outstanding obligation was addressed most recently by Section 15 of HB 7009 which transferred \$7,423,862 from the State Housing Trust Fund to General Revenue in order to satisfy the FHFC's outstanding obligation as of December 31, 2007. FHFC claims that no further general government costs have been incurred under s. 420.5061, F.S., since January 1, 1998 owing to the fact that it has internally assumed the services formerly provided by DFS to the Agency.

Effect of the Bill

The bill amends s. 420.5061, F.S., to repeal the provision requiring the FHFC to transfer service charges to General Revenue. The repeal would divert approximately \$700,000 annually from General Revenue to the FHFC.

State Housing Initiatives Partnership Act (SHIP) Statutory Definitions

Present Situation

Under current law s. 420.9071, F.S., establishes numerous statutory definitions for the implementation of the SHIP Act by the FHFC. The SHIP program provides funds to local governments on a population-based formula as an incentive to produce and preserve affordable housing.

Effect of the Bill

The bill makes the following changes to the statutory definitions:

Section 420.9071 (4), F.S.: Updates the definition of “Annual gross income.” The change would allow FHFC by rule, to approve additional income verification methods consistent with verification methods currently utilized in the lending industry.

Section 420.9071 (8), F.S.: Updates the definition of “Eligible housing” to include manufactured homes built after 1994. Following the Hurricane Housing Work Group’s recommendation in 2005, FHFC used Hurricane Housing Recovery Program funds for manufactured housing assistance. Since 2006, the Community Workforce Housing Innovation Pilot Program (“CWHIP”) has included language identical to this.

Section 420.9071 (16), F.S.: Changes the definition of “Local housing incentive strategies” to allow the affordable housing advisory committee to propose additional incentive strategies for the local housing assistance plan.

Section 420.9071 (25), F.S.: Revises the definition of “Recaptured funds” to clarify the difference between recapture and program income. Currently, funds are categorized as recaptured when there is a default on a loan. The change would clarify that funds are only designated as recaptured when no eligible unit is assisted with the funds being recaptured. This also would allow FHFC to track the use of funds more accurately.

Local Housing Distributions of SHIP Funding

Present Situation

Under current law s. 420.9073, F.S., establishes the criteria and manner of local housing distributions of the SHIP Act by the FHFC.

Effect of the Bill

The bill makes the following changes regarding the distribution of SHIP funds:

Section 420.9073 (1) and (2), F.S.: Allows FHFC to distribute funds on a quarterly basis rather than a monthly basis. The change would allow FHFC to distribute funds to local governments consistent with the schedule for release of funds by the state to FHFC.

Section 420.9073 (3) and 420.9075 (7), F.S.: Increases the minimum allocation of SHIP Funds for each county to \$500,000. The change would increase the minimum allocation as proposed by the Affordable Housing Study Commission in 2007. This increase is meant to offset the growing number of households seeking assistance. Additionally, increasing the allocation to \$500,000 will trigger the Florida Single Audit Act, providing an additional oversight mechanism for this funding.

Section 420.9073 (5), F.S.: Allows FHFC to set aside \$5 million each year in SHIP funds to fund disaster needs based on damage and recovery need. This change will allow FHFC to reserve funds to allocate to local

governments for the purpose of quickly addressing housing needs in areas that are affected by a disaster situation as declared by the Governor. Funds not used for this purpose will be distributed to the local governments by the end of the year.

Section 420.9073 (6), F.S.: Allows FHFC to set aside up to \$5 million each year in SHIP funds for local governments to purchase homes which have existing SHIP subsidies and that are subject to foreclosure. This change will allow for such homes to be resold through the SHIP program. The proposed statutory language provides options for how the local government using this fund will repay funds used for this purpose so that no local government will receive additional SHIP funds beyond their annual allocation. This pool would allow local governments that have already encumbered all current funds to move quickly in a foreclosure situation.

Section 420.9073 (7), F.S.: Clarifies that all counties or municipalities receiving SHIP funds must comply with Florida law, program rules, and the local housing assistance plan.

Development and Implementation of Local Housing Assistance Plans

Present Situation

Under current law, s. 420.9075, F.S., requires counties and eligible municipalities participating in the SHIP program to develop and implement a local housing assistance plan to make available affordable residential units to specified persons.

Additionally, s. 420.9076, F.S., requires counties and eligible municipalities participating in the SHIP program, after adopting a local housing assistance plan pursuant to s. 420.9075, F.S., to amend that plan within 12 months to include local housing incentive strategies.

Effect of the Bill

The bill makes the following changes to local housing assistance plans:

Section 420.9075 (1)(a) and (5)(d), F.S.: Allows local governments to increase the area median income (AMI) limit on households served from 120% to 140% for areas determined by FHFC rule to be "high cost" areas. This change allows local governments to serve workforce households in areas where the cost of housing is above the state median pricing.

Section 420.9075 (3)(d), F.S.: Requires local governments to state in their local housing assistance plans how they plan to address innovative design, green building, storm resistant construction and other elements that reduce long term costs. This change requires that local governments consider how current and emerging building and design techniques should be integrated into affordable housing strategies both for sustainability and to promote greater affordability.

Section 420.9075 (5)(d), F.S.: Extends income restriction exemption requirements for Monroe County. The Legislature has declared its intent to provide affordable housing for areas of critical state concern, areas such as Monroe County, are presently exempt from the statutory reservation of SHIP funds specifically for low-income and very-low-income persons, allowing funding to households at or below 120% of AMI. This exception is set to expire July 1, 2008; this would extend the exemption to July 1, 2013, based on continuing high housing costs relative to incomes.

Section 420.9075 (5)(l), F.S.: Clarifies and outlines the parameters in which funds may be awarded as grants rather than loans: most SHIP funding is now provided in the form of loans including deferred payment and forgivable loans. This change clarifies when a local government can grant SHIP funds without any terms for repayment or recapture. This change will increase the amount of funds recycled through SHIP to assist additional households.

Section 420.9075 (10)(a), F.S.: Adds “persons with disabilities” to the list of demographics that must be tracked by the local governments. This change allows FHFC to track the number of households with a person with a disability which are served through the SHIP program.

Section 420.9075 (10)(h), F.S.: Revises language to allow FHFC to require the tracking of additional program information by the local governments as necessary. This change adapts annual reporting requirements to allow FHFC to supply additional data needed to provide information on the performance of the program.

Section 420.9075 (14), F.S.: Requires repayment of SHIP funds if these funds are found to be expended on ineligible activities. This change would give FHFC the ability to require that funds found to be used for ineligible expenditures be repaid by the local government to the local program’s affordable housing trust fund.

Section 420.9076 (2)(h), F.S.: Allows a local government to appoint a “designee” to its affordable housing advisory committee in place of the Local Planning Agency (LPA) committee member in cases where the elected body acts as the LPA. This change would allow for circumventing conflicts where the LPA is the elected body of the local government.

Section 420.9076 (5), F.S.: Amends language concerning the affordable housing advisory committee reporting requirements. This change clarifies that the committee’s evaluation and report must be adopted by the committee, must contain a summary, be available for the public to obtain, and be submitted to FHFC.

Deletion of s. 420.9078, F.S.

Present Situation

Section 420.9078, F.S., establishes criteria and methodology for the distribution of funds that remain in the Local Government Housing Trust Fund.

Effect of the Bill

The deletion of s. 420.9078, F.S., is tied to the implementation of s. 420.9073 (5), F.S., which will allow FHFC to set aside \$5 million each year to fund disaster needs based on damage and recovery need. This change will allow FHFC to reserve funds to allocate to local governments to quickly address housing needs in areas that are affected by a disaster situation as declared by the Governor. Funds not used for this purpose will be distributed to the local governments at the end of the year.

C. SECTION DIRECTORY:

Section 1: Amends s. 420.5061, F.S., to remove the provision requiring the Florida Housing Finance Corporation to pay a General Revenue service charge at the time of original transfer or rights and liabilities from the Florida Housing Finance Agency to the FHFC.

Section 2: Amends s. 420.9071(4), (8), (16), and (25), F.S., revising select definitions of the State Housing Initiative Partnership Act

Section 3: Amends s. 420.9072(6), F.S., to eliminate reference to s. 420.978, F.S.

Section 4: Amends s. 420.9073, F.S., revising the criteria and manner of local housing distributions of the State Housing Initiatives Partnership Act by the FHFC.

Section 5: Amends s. 420.9075, F.S., revising local housing assistance plan requirements for counties and eligible municipalities participating in the State Housing Initiatives Partnership program.

Section 6: Amends s. 420.9076, F.S., revising requirements for counties and eligible municipalities participating in the SHIP program. This change requires local governments after adopting a local housing assistance plan pursuant to s. 420.9075, F.S., to amend that plan within 12 months to include local housing incentive strategies.

Section 7: Repeals s. 420.9078, F.S., which directs the state administration of remaining local housing distribution funds.

Section 8: Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The repeal of s. 420.5061, F.S., would divert approximately \$700,000 annually from General Revenue to the FHFC.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will increase accessibility to affordable housing by increasing the minimum allocation of SHIP funding to the growing number of households seeking assistance for affordable housing.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 20, 2008, a strike-all amendment was adopted with one technical amendment to the strike-all amendment by the Economic Development Committee, and the bill was reported favorably.

The amendment changes the following:

- **Section 159.807(4)(b), F.S.:** is deleted clarifying that the non-taxable revenue bond allocation process currently implemented is the correct procedure.
- **Section 196.1978, F.S.:** clarifies the Ad Valorem Exemption for Non-Profit Housing Property. Entities considered tax exempt by the IRS for charitable non-profit housing organizations will also be considered tax exempt by the state of Florida.
- **Section 420.503(42), F.S.:** is created to include a definition for moderate rehabilitation, allowing State Apartment Incentive Loan Program (SAIL) funds to be used to preserve units that are less deteriorated than those requiring "substantial rehabilitation" as defined in s. 420.503(41), F.S.

- **Section 420.507(47), F.S.:** is created to allow the FHFC to develop and administer the Florida Public Housing Authority Preservation Grant Program.
- **Section 420.5087(6)(l), F.S.:** allows use of SAIL funds for moderate rehabilitation and preservation of existing affordable units.
- **Section 420.9071 (29), F. S.:** is created to include a definition for “Assisted housing” or “Assisted housing development” meaning a rental housing development, including rental housing in a mixed use development that received or currently receives funding from any federal or state housing program.
- **Section 420.9071 (30), F. S.:** is created to include a definition for “Preservation,” meaning actions taken to keep rents in existing assisted housing affordable for income defined households, while ensuring that the property stays in good physical and financial condition.
- **Section 420.9075(3)(e), F.S.:** is created to encourage local governments to develop preservation strategies.
- **Section 420.9073 (3) and 420.9075 (7), F.S.:** proposed amendments to increase the minimum allocation of SHIP Funds for each county to \$500,000 are deleted.
- **Section 420.9075(5)(k), F.S.:** provides for funding of preconstruction preservation activities, and provides that under certain circumstances such funds shall not be considered as administrative expenses.
- **Section 1001.43 (12), F.S.:** allows school boards in areas of Critical State Concern to use surplus land for housing for teachers and other essential services personnel as defined by local affordable housing plans.
- The sum of \$75 million is appropriated from the Local Government Housing Trust Fund to the Florida Housing Finance Corporation to be used in the Homeownership Assistance Program under s. 420.5088, F.S. Funds shall be used in counties and municipalities in the state which have reduced impact fees not less than 25 percent for a period not less than 18 months and not more than 12 months prior to the effective date of this act, or which impose no impact fees or waive impact fees entirely for homeownership purchases funded from this appropriation.